

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers, <i>Co-Chair</i> Donald A. Migliori, <i>Co-Chair</i> Robert T. Haeefe, <i>Liaison Counsel</i> MOTLEY RICE LLC	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA ECF

May 7, 2024

The Honorable Sarah Netburn, U.S. Magistrate Judge
United States District Court for the S.D.N.Y.
Thurgood Marshall U.S. Courthouse, Room 430
40 Foley Square
New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

The Plaintiffs' Executive Committees and counsel for the *Ashton* Plaintiffs, as authorized by the Court's endorsements at EFC No. 9122 and 9434, today have filed publicly "Plaintiffs' [Corrected] Memorandum of Law In Opposition to the Renewed Motion to Dismiss of the Kingdom of Saudi Arabia [ECF No. 9368]," which Plaintiffs previously filed under seal on January 17, 2024 at ECF No. 9539. The parties' review of the remainder of Plaintiffs' filings in opposition to Saudi Arabia's renewed motion to dismiss (including Plaintiffs' Averments and declarations with exhibits) is ongoing, and Plaintiffs anticipate filing the remaining items in unsealed, redacted, public form once the parties have completed their review.

Consistent with the processes indicated in the endorsements at EFC No. 9122 and 9434, after Plaintiffs' Memorandum of Law was filed under seal, Plaintiffs circulated the memorandum among counsel for Saudi Arabia, Dallah Avco, and the FBI, with proposed redactions premised on information the FBI had previously designated as subject to the Privacy Act Order and Protective Order for FBI Documents ("the FBI Order," ECF No. 4255). The document filed publicly today reflects redactions that the FBI has identified under the FBI Order and that Saudi Arabia has identified under the umbrella protective order entered in the MDL (ECF No. 1900). Dallah Avco proposed no redactions to the document filed today.

As recognized in both endorsements and repeated throughout the parties' negotiations in the unsealing process, by publicly filing Plaintiffs' memorandum today with the redactions the FBI and Saudi Arabia have proposed, Plaintiffs are not waiving any right to seek to remove any redaction. ECF Nos. 9122 at 2, 9434 at 1. Plaintiffs continue to generally reserve the right to object to the FBI's or any other parties' confidentiality designations, including without limitation because (1) the FBI's law enforcement investigation into 9/11 has ended, (2) the public has a presumptive right to access judicial documents, especially materials offered for the Court's consideration in dispositive motion practice, (3) President Biden's Executive Order 14040 expressed the value of maximizing the

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public access to this information, (4) this Court has previously recognized the need for public access, (5) neither the Government nor any other party has substantiated the necessity for the sealing and proposed redactions and (6) any further objection to unsealing is waived.

Respectfully submitted,

COZEN O'CONNOR

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cc: The Honorable George B. Daniels, via ECF
All Counsel of Record via ECF